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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,077	02/05/2001	Dimitri Kanevsky	YOR920000475US1(13823)	9551

7590 09/21/2004

Richard L. Catania  
Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, NY 11530

EXAMINER

GART, MATTHEW S

ART UNIT PAPER NUMBER

3625

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/777,077

Applicant(s)

KANEVSKY ET AL.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/16/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 10-20 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 10-20 and 22-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

Applicant has amended claims 1, 14, 17 and 20, cancelled claims 2-9 and 21 and added new dependent claims 22-30. Claims 1, 10-20 and 22-30 are pending in the instant application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 10-20 and 22-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen U.S. Patent No. 6,041,316.**

Referring to claim 1. Allen discloses an application system running in a central processing unit for changing the appearance and performance generated by a specified application, the system comprising, a timer for measuring time, and means, responsive to the timer, to change, after receipt of the specified application by the central processing unit, the appearance or performance generated by the specified application according to a timed procedure to encourage a user of the application to abandon this specified application and to purchase a new version of the specified application (Allen: column 7, line 10 to column 8, line 57).

Allen does not expressly disclose an application system wherein the central processing unit is connected to a network to receive data therefrom over a bandwidth

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and the means to change the appearance or performance of the specified application includes means to degrade said network bandwidth.

The Examiner notes, the specification of the instant invention (Page 4, Paragraph 2) discloses, that a trial or demonstration version or sample of the program is provided with means to diminish or decrease the quality of the program over time. The software program may be gradually degraded in any one or more of a number of ways. For example, 1) The brightness fades so that it is harder for the user to use the software tool as time progresses. This is the user's inducement to pay for the license, registration code, or actual software. 2) The application window shrinks through time. 3) The font degrades. 4) Features gradually drop out. 5) Display quality (spatial resolution, color resolution, display refresh rate) degrades. 6) Sound quality degrades. 7) Processing speed degrades. 8) Network bandwidth degrades. 9) Unpleasant visual and auditory stimulus is produced. For examples, watermarks may be superimposed and become progressively more opaque; blinking, interfering photographs may be shown. 10) Information degrades (for text, some letters are progressively omitted, words are progressively omitted, some sentences are progressively omitted, some document sections are progressively omitted. For application with sound, sound sections are progressively omitted. Random omissions may also be performed.

Allen discloses a system wherein exemplary data reduction techniques suitable for generating a partially degraded version of a given piece of data include the following. Major or key portions of the data could be filtered out or otherwise deleted without rendering the data unrecognizable. Different levels and types of noise could be added

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to the data to set a particular quality level. One or more portions of the data could be encrypted, while the remaining portions are unencrypted and recognizable. A header, trailer and/or other notices could be placed at various points in the data indicating that the data has been provided to the customer for evaluation purposes only. A short preview of the data could be provided. The data could be provided in the form of a read-once copy or a copy which self-destructs as it is viewed, such that the customer will require a new copy after reviewing the data once. As another alternative, the partially degraded version of the data could be a copy which includes a usage time limitation such that the data is destroyed or otherwise rendered unusable after elapse of a predetermined time (Allen: column 7, lines 46-65).

The system as described by Allen overlaps with the system as described by the instant invention, for instance, Allen's disclosure of "...major or key portions of the data that could be filtered out or otherwise deleted without rendering the data unrecognizable" is functionally equivalent to the instant application's definition of "Information degrades".

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the method of Allen to have included any number of means to change the appearance or performance of the specified application in order to resolve the conflict between free access and payment of royalties by providing liberal access to partially-degraded data suitable for browsing or research, and charging users a royalty to receive higher quality versions of the data suitable for purposes such as entertainment (Allen: column 2, lines 25-32)

Furthermore, the applicant has not persuasively demonstrated the criticality of changing the appearance or performance of the specified application being limited to degrading said network bandwidth or by any other specified means (as disclosed via subsequent dependent claims 22-30). Specifically bandwidth reduction does not solve any stated problem different from the very basic problem set forth by the Applicant (i.e. to control the appearance and performance of a software application). Accordingly, the specification of such can only be construed as one of the numerous and functionally equivalent techniques the skilled artisan would have found obvious in full view of the Allen disclosure which teaches both common and alternative solutions to the same very basic problem addressed by the applicant.

Referring to claim 10. Allen further discloses a system where changes are obtained by manipulating drives in PC (column 7, line 10 to column 8, line 57).

Referring to claim 11. Allen further discloses a system where users pay money or view advertisements to reduce or eliminate degradation (abstract).

Referring to claim 12. Allen further discloses a system where money is paid to any of: software manufacturer, seller, third party, or degradation service provider (abstract).

Referring to claim 13. Allen further discloses a system where the amount of degradation is related to the amount of money paid (abstract).

Referring to claims 14-16. Claims 14-16 are rejected under the same rationale as set forth above in claims 1 and 10-13.

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Referring to claims 17-19. Claims 17-19 are rejected under the same rationale as set forth above in claims 1 and 10-13.

Referring to claims 20. Claim 20 is rejected under the same rationale as set forth above in claims 1 and 10-13.

Referring to claims 22-30. Claims 22-30 are rejected under the same rationale as set forth above in claim 1.

### ***Response to Arguments***

Applicant's arguments filed 5/3/2004 have been fully considered but they are moot in view of the new grounds of rejection.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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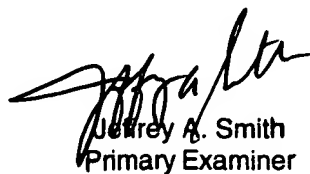
Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

September 9, 2004



Jeffrey A. Smith  
Primary Examiner